

(2024) 10 UK CK 0017

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 2618 Of 2024

Kamla Devi

APPELLANT

Vs

State Of Uttarakhand & Others

RESPONDENT

Date of Decision : 01-10-2024

Acts Referred:

Maintenance And Welfare Of Parents And Senior Citizen Act, 2007 — Section 5, 16, 16(6)

Constitution Of India, 1950 — Article 227

Citation : (2024) 10 UK CK 0017

Hon'ble Judges : Pankaj Purohit, J

Bench : Single Bench

Advocate : M.S. Pal, Apoorv Chauhan, Anil Dabral

Final Decision : Allowed

Judgement

Pankaj Purohit, J

1. Heard learned counsel for the parties.
2. The writ petition has been filed by the petitioner under Article 227 of the Constitution of India seeking a direction to the court below to decide the Tribunal Appeal No.51/13 of 2023, Kamla Devi vs. Jitendra Kumar & Another, filed by the petitioner under Section 16 of the Maintenance and Welfare of Parents and Senior Citizen Act, 2007 (for short "the Act, 2007").
3. It is the case of the petitioner that respondent no.2 and respondent no.3 are son and daughter-in-law of the petitioner, respectively. Petitioner moved an application under Section 5 of the Act, 2007 in the court of Prescribed Authority/SDM, Jaspur, District Udham Singh Nagar which was registered as Misc. Case No.23 of 2022, Kamla Devi vs. Jitendra Kumar & another for maintenance from respondent nos.2 & 3. The said application of the petitioner was rejected vide order dated 19.07.2023. Feeling aggrieved, petitioner has moved an appeal under Section 16 of the Act, 2007 before the Tribunal constituted under the

District Magistrate, Udham Singh Nagar, which is registered as Tribunal Appeal No.51/13 of 2023, Kamla Devi vs. Jitendra Kumar & another. The appeal of the petitioner was preferred on 17.08.2023, but till date, the appeal has not been decided by learned Appellate Tribunal/District Magistrate, Udham Singh Nagar.

4. Learned Senior Advocate appearing for the petitioner has drawn the attention of this Court to Section 16(6) of the Act, 2007 and submits that it is mandatory under the law that the appeal shall be decided within a period of one month from the date of receipt of the appeal.

5. Section 16(6) of the Act, 2007 is quoted hereinbelow:-

"16. Appeals.-(1).....

(2).....

(3).....

(4).....

(5).....

(6) The Appellate Tribunal shall make an endeavour to pronounce its order in writing within one month of the receipt of an appeal."

6. Having considered the submissions of learned counsel for the parties and having gone through the above Section, there is no manner of doubt in the mind of this Court that the Appellate Tribunal shall make all endeavours to decide the appeal within one month from the date of receipt of the appeal. In the case in hand, the appeal has been received in the office of the Appellate Tribunal on 17.08.2023 and till date, it is still undecided.

7. Accordingly, the writ petition is allowed. The learned Appellate Tribunal/District Magistrate, Udham Singh Nagar is hereby directed to decide the Tribunal Appeal No.51/13 of 2023, Kamla Devi vs. Jitendra Kumar & another, within a period of one month from today.

8. Let a certified copy of this order be issued to the parties today itself.

9. Pending application, if any, stands disposed of accordingly.